

WILLIAM E. DENT, JR.

IBLA 90-265

Decided February 4, 1992

Appeal from a decision of the Eastern States Office, Bureau of Land Management, rejecting oil and gas lease offer ARES 34525.

Affirmed.

1. Mineral Leasing Act for Acquired Lands: Generally—Oil and Gas Leases:
Applications: Generally—Oil and Gas Leases: Competitive Leases—Oil and Gas
Leases: Discretion to Leases—Oil and Gas Leases: Offers to Lease

Filing a noncompetitive oil and gas lease offer when the lands are available for leasing does not establish a legal or equitable right to a lease if the lands subsequently become unavailable for leasing by operation of law. Congress mandated that lands within the Quachita National Forest be offered for competitive leasing even though valid noncompetitive lease offers may be outstanding. If lands were offered at a competitive sale and a bid in excess of the national minimum acceptable bid was received from a responsible qualified bidder then the pending noncompetitive offer to lease that tract was properly rejected.

APPEARANCES: William E. Dent, Jr., pro se.

OPINION BY ADMINISTRATIVE JUDGE MULLEN

William E. Dent, Jr. (Dent), has appealed from a January 8, 1990. decision of the Eastern States Office, Bureau of Land Management (BLM), rejecting oil and gas lease offer ARES 34525 because, under the Federal Onshore Oil and Gas Leasing Reform Act of 1987 (FOOGLRA), P.L. 100-203, 101 Stat. 1330-256, pending noncompetitive applications for lease of land within the Quachita National Forest may not be accepted unless the land had been offered competitively and no acceptable bids were received. The decision noted that the land described in Dent's application was offered competitively on August 29, 1989, acceptable bids were received, and a lease was issued to the high bidder. Dent appealed this decision.

Dent was the acceptable drawee for tract ES 108 in the December 1984 simultaneous oil and gas lease drawing, and his filing was assigned serial No. ARES 34525. The tract described as ES 108 consisted of 2,200 acres located in the Quachita National Forest, Scott County, Arkansas. At the time of the drawing, issuance of oil and gas leases in Arkansas had been

suspended pending final resolution of litigation in Arkla Exploration Co. v. Watt. ^{1/} This suspension was still in effect when FOOGLRA became law.

Section 5106(b) of FOOGLRA had direct impact upon Dent's pending offer. That section provided, in part:

(b) No noncompetitive lease applications or offers pending on the date of enactment of this subtitle for lands within the * * * Quachita National Forest, Arkansas * * * shall be processed until these lands are posted for noncompetitive bidding in accordance with 5102 of this subtitle. If any such tract does not receive a bid equal to or greater than the national minimum acceptable bid from a responsible qualified bidder then the noncompetitive applications or offers pending for such a tract shall be reinstated and noncompetitive leases issued under the Act of February 25, 1920, as in effect before its amendment by this subtitle * * *. If competitive leases are issued * * * the pending noncompetitive application or offer shall be rejected.

30 U.S.C. § 226 note (1988). Following passage of FOOGLRA, BLM scheduled certain lands within the Quachita National Forest, including those described in Dent's offer ARES 34525, for oral auction at a competitive sale held in New Orleans, Louisiana, on August 29, 1989. ^{2/} At the sale a successful bid of \$25 per acre was submitted and lease ARES 41112 was issued, effective November 1, 1989. On January 8, 1990, BLM issued its decision formally rejecting Dent's offer. This appeal followed.

On appeal Dent notes that he was the successful applicant for the parcel and submitted his \$2,200 advance rental, which has been held by BLM since February 1985. Dent finds it incredible that the Department would hold his funds for such a long period and then lease the land to another. He notes that his application was made in good faith under then existing rules and regulations, which had nothing to do with the problems leading to the Arkla Exploration litigation, and specifically states that he is seeking a lease, not the return of his funds.

[1] Dent's frustration is understandable. After holding his funds for a number of years BLM issues a lease to another. Notwithstanding this frustration, neither BLM nor this Board can afford the relief he seeks. Filing a noncompetitive oil and gas lease offer when the lands may be available for leasing does not establish any legal or equitable right to a lease if the lands subsequently become unavailable for leasing by operation of law. Lowell J. Simons, 114 IBLA 284, 289 (1990). When

^{1/} See Arkla Exploration Co. v. Watt, 562 F.2d 1214 (W.D. Ark. 1983), aff'd, Arkla Exploration Co. v. Texas Oil & Gas Corp., 734 F.2d 347 (8th Cir. 1984), cert. denied, 469 U.S. 1158 (1985).

^{2/} In a Mar. 14, 1990, response to a Congressional inquiry, BLM stated that a copy of the Sales Notice was sent to Dent 45 days prior to the sale.

Congress passed FOOGLRA it specifically mandated that lands within the Quachita National Forest must be offered for noncompetitive leasing, even though a valid noncompetitive lease offer was outstanding. ^{3/} The land was offered at a competitive sale, a bid in excess of the national minimum acceptable bid was received from a responsible qualified bidder, and Dent lost his pending noncompetitive offer to lease that tract by operation of law. It could not be reinstated. This consequence was mandated by Congress and BLM merely carried out that mandate.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

R. W. Mullen
Administrative Judge

I concur:

Will A. Irwin
Administrative Judge

^{3/} This statutory requirement was a specific exception to the "grandfathering" provision of section 5106(a) of FOOGLRA.

